

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

CALIPH MANLEY

Plaintiff,

vs.

**THE CITY OF PHILADELPHIA. POLICE
OFFICER ROBERT OAKES, AND POLICE
TERRELLE GREENE**

Defendants

: CIVIL ACTION
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:
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: NO. 13-6053
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**ANSWER AND AFFIRMATIVE DEFENSES OF DEFENDANTS THE CITY
PHILADELPHIA , POLICE OFFICER ROBERT OAKES AND POLICE OFFICER
TERRELLE GREENE**

Defendants, The City of Philadelphia, Police Officer Robert Oakes and Police Officer Terrelle Greene, by and through the undersigned counsel, Niya L. Blackwell, Deputy City Solicitor, hereby file their Answer and Affirmative defenses to the Plaintiff's Complaint, and avers as follows:

PARTIES

1. The allegations in this paragraph pertain to parties other than Answering Defendants and therefore requires no response.
2. It is admitted that the City of Philadelphia is a city of the first class. All other allegations are denied.
3. It is admitted that defendant Robert Oakes is a Philadelphia Police Officer. All other allegations in this paragraph are denied.
4. It is admitted that defendant Terrelle Greene is a Philadelphia Police Officer. All other allegations in this paragraph are denied.

5. It is admitted that Defendants Oakes and Greene are Philadelphia Police Officers, all other allegations in this paragraph are denied.

JURISDICTION

6. The allegations in this paragraph constitute conclusions of law to which no response is required. To the extent to which a response is required, the allegations in this paragraph are denied.

7. The allegations in this paragraph constitute conclusions of law to which no response is required. To the extent to which a response is required, the allegations in this paragraph are denied.

8. The allegations in this paragraph constitute conclusions of law to which no response is required. To the extent to which a response is required, the allegations in this paragraph are denied.

FACTUAL ALLEGATIONS

9. After reasonable investigation, Answering Defendants are without knowledge or information sufficient to form a belief as to the truth of the averments contained in this paragraph.

10. The allegations in this paragraph are denied as inaccurate, misleading and untrue.

11. The allegations in this paragraph are denied as inaccurate, misleading and untrue.

12. The allegations in this paragraph are denied as inaccurate, misleading and untrue.

13. Answering Defendants have no knowledge or means of ascertaining the truth or falsity of the allegations respecting the injuries, sufferings and/or damages alleged to have been sustained by Plaintiff and the same are accordingly denied.

14. The allegations in this paragraph constitute conclusions of law to which no response is required. To the extent to which a response is required, the allegations in this paragraph are denied.

15. The allegations in this paragraph are denied as inaccurate, misleading and untrue.

16. Answering Defendants have no knowledge or means of ascertaining the truth or falsity of the allegations respecting the injuries, sufferings and/or damages alleged to have been sustained by Plaintiff and the same are accordingly denied.

17. Answering Defendants have no knowledge or means of ascertaining the truth or falsity of the allegations respecting the injuries, sufferings and/or damages alleged to have been sustained by Plaintiff and the same are accordingly denied.

18. The allegations in this paragraph are denied as inaccurate, misleading and untrue.

19. The allegations in this paragraph are denied as inaccurate, misleading and untrue.

20. The allegations in this paragraph are denied as inaccurate, misleading and untrue.

21. The allegations in this paragraph are denied as inaccurate, misleading and untrue.

22. The allegations in this paragraph constitute conclusions of law to which no response is required. To the extent to which a response is required, the allegations in this paragraph are denied.

23. The allegations in this paragraph constitute conclusions of law to which no response is required. To the extent to which a response is required, the allegations in this paragraph are denied.

24. The allegations in this paragraph are denied as inaccurate, misleading and untrue.

COUNT I
CIVIL RIGHTS VIOLATIONS v. THE CITY OF PHILADELPHIA

25. The preceding paragraphs are incorporated herein by reference as though fully set forth at length.

26. The allegations in this paragraph constitute conclusions of law to which no response is required. To the extent to which a response is required, the allegations in this paragraph are denied.

27. Answering Defendants have no knowledge or means of ascertaining the truth or falsity of the allegations respecting the injuries, sufferings and/or damages alleged to have been sustained by Plaintiff and the same are accordingly denied.

28. The allegations in this paragraph are denied as inaccurate, misleading and untrue.

29. The allegations in this paragraph are denied as inaccurate, misleading and untrue.

30. The allegations in this paragraph constitute conclusions of law to which no response is required. To the extent to which a response is required, the allegations in this paragraph are denied.

31. The allegations in this paragraph constitute conclusions of law to which no response is required. To the extent to which a response is required, the allegations in this paragraph are denied.

32. The allegations in this paragraph constitute conclusions of law to which no response is required. To the extent to which a response is required, the allegations in this paragraph are denied.

33. The allegations in this paragraph constitute conclusions of law to which no response is

required. To the extent to which a response is required, the allegations in this paragraph are denied.

34. The allegations in this paragraph constitute conclusions of law to which no response is required. To the extent to which a response is required, the allegations in this paragraph are denied.

35. The allegations in this paragraph are denied as inaccurate, misleading and untrue.

36. The allegations in this paragraph are denied as inaccurate, misleading and untrue.

37. The allegations in this paragraph are denied as inaccurate, misleading and untrue.

38. Answering Defendants have no knowledge or means of ascertaining the truth or falsity of the allegations respecting the injuries, sufferings and/or damages alleged to have been sustained by Plaintiff and the same are accordingly denied.

39. The allegations in this paragraph constitute conclusions of law to which no response is required. To the extent to which a response is required, the allegations in this paragraph are denied.

40. The allegations in this paragraph constitute conclusions of law to which no response is required. To the extent to which a response is required, the allegations in this paragraph are denied.

COUNT II – CIVIL RIGHTS VIOLATIONS V. OAKES AND GREENE

41. The preceding paragraphs are incorporated herein by reference as though fully set forth at length.

42. The allegations in this paragraph constitute conclusions of law to which no response is required. To the extent to which a response is required, the allegations in this paragraph are denied.

43. The allegations in this paragraph constitute conclusions of law to which no response is required. To the extent to which a response is required, the allegations in this paragraph are denied.

44. The allegations in this paragraph constitute conclusions of law to which no response is required. To the extent to which a response is required, the allegations in this paragraph are denied.

45. The allegations in this paragraph constitute conclusions of law to which no response is required. To the extent to which a response is required, the allegations in this paragraph are denied.

46. Answering Defendants have no knowledge or means of ascertaining the truth or falsity of the allegations respecting the injuries, sufferings and/or damages alleged to have been sustained by Plaintiff and the same are accordingly denied.

47. Answering Defendants have no knowledge or means of ascertaining the truth or falsity of the allegations respecting the injuries, sufferings and/or damages alleged to have been sustained by Plaintiff and the same are accordingly denied.

48. The allegations in this paragraph constitute conclusions of law to which no response is required. To the extent to which a response is required, the allegations in this paragraph are denied.

49. The allegations in this paragraph constitute conclusions of law to which no response is required. To the extent to which a response is required, the allegations in this paragraph are denied.

COUNT III – CIVIL RIGHTS VIOLATIONS V. ALL DEFENDANTS

50. The preceding paragraphs are incorporated herein by reference as though fully set forth at length.

51. Denied as stated.

52. The allegations in this paragraph constitute conclusions of law to which no response is required. To the extent to which a response is required, the allegations in this paragraph are denied.

53. The allegations in this paragraph are denied as inaccurate, misleading and untrue.

54. The allegations in this paragraph are denied as inaccurate, misleading and untrue.

55. The allegations in this paragraph are denied as inaccurate, misleading and untrue.

56. Answering Defendants have no knowledge or means of ascertaining the truth or falsity of the allegations respecting the injuries, sufferings and/or damages alleged to have been sustained by Plaintiff and the same are accordingly denied.

57. The allegations in this paragraph constitute conclusions of law to which no response is required. To the extent to which a response is required, the allegations in this paragraph are denied

58. The allegations in this paragraph constitute conclusions of law to which no response is required. To the extent to which a response is required, the allegations in this paragraph are denied.

59. The allegations in this paragraph constitute conclusions of law to which no response is required. To the extent to which a response is required, the allegations in this paragraph are denied.

60. The allegations in this paragraph constitute conclusions of law to which no response is required. To the extent to which a response is required, the allegations in this paragraph are denied.

61. The allegations in this paragraph constitute conclusions of law to which no response is required. To the extent to which a response is required, the allegations in this paragraph are denied⁵

62. The allegations in this paragraph constitute conclusions of law to which no response is required. To the extent to which a response is required, the allegations in this paragraph are denied.

63. The allegations in this paragraph constitute conclusions of law to which no response is required. To the extent to which a response is required, the allegations in this paragraph are denied.

64. The allegations in this paragraph constitute conclusions of law to which no response is required. To the extent to which a response is required, the allegations in this paragraph are denied.

65. The allegations in this paragraph constitute conclusions of law to which no response is required. To the extent to which a response is required, the allegations in this paragraph are denied.

COUNT IV – EXCESSIVE FORCE V. OAKES AND GREENE

66. The preceding paragraphs are incorporated herein by reference as though fully set forth at length.

67. The allegations in this paragraph constitute conclusions of law to which no response is required. To the extent to which a response is required, the allegations in this paragraph are denied.

68. The allegations in this paragraph constitute conclusions of law to which no response is required. To the extent to which a response is required, the allegations in this paragraph are denied.

69. The allegations in this paragraph constitute conclusions of law to which no response is required. To the extent to which a response is required, the allegations in this paragraph are denied.

70. The allegations in this paragraph constitute conclusions of law to which no response is required. To the extent to which a response is required, the allegations in this paragraph are denied.

71. The allegations in this paragraph constitute conclusions of law to which no response is required. To the extent to which a response is required, the allegations in this paragraph are denied.

COUNT V – ASSAULT AND BATTERY

72. The preceding paragraphs are incorporated herein by reference as though fully set forth at length.

73. The allegations in this paragraph constitute conclusions of law to which no response is required. To the extent to which a response is required, the allegations in this paragraph are denied.

74. The allegations in this paragraph constitute conclusions of law to which no response is required. To the extent to which a response is required, the allegations in this paragraph are denied.

75. The allegations in this paragraph constitute conclusions of law to which no response is required. To the extent to which a response is required, the allegations in this paragraph are denied.

76. The allegations in this paragraph constitute conclusions of law to which no response is required. To the extent to which a response is required, the allegations in this paragraph are denied.

77. The allegations in this paragraph constitute conclusions of law to which no response is required. To the extent to which a response is required, the allegations in this paragraph are denied.

WHEREFORE, Answering Defendants deny that they are liable upon all causes of action declared upon and demand judgment in their favor, plus interest and costs.

Respectfully submitted,

/s/Niya L. Blackwell
NIYA L. BLACKWELL
Deputy City Solicitor
City of Philadelphia Law Department
Civil Rights Unit
1515 Arch Street, 14th Floor
Philadelphia, PA 19102

DATED: November 20, 2013

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

Plaintiff has failed to state a claim upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

Answering Defendants assert all the defenses, immunities, and limitations of damages available under the “Political Subdivision Tort Claims Act,” and aver that Plaintiff’s remedies are limited exclusively thereto. Act of Oct. 5, 1980, No. 142, P.L. 693, 42 Pa C.S.A. § 8541 et. seq.

THIRD AFFIRMATIVE DEFENSE

Answering Defendants did not deprive the Plaintiff of any rights owing to him under the laws of the United States of America or the Commonwealth of Pennsylvania.

FOURTH AFFIRMATIVE DEFENSE

It is averred that at all times concerned with this litigation, the Answering Defendants acted in a manner which was proper, reasonable, lawful, and in the exercise of good faith.

FIFTH AFFIRMATIVE DEFENSE

It is further averred that if Plaintiff sustained injuries and damages as alleged in the Complaint, it was due solely to Plaintiff’s negligence, carelessness and reckless disregard for the rights of others and herself.

SIXTH AFFIRMATIVE DEFENSE

It is further averred that if Plaintiff sustained injuries and damages as alleged in the Complaint, it was due solely to the fact that Plaintiff violated Federal Statutes, State Statutes and/or City Ordinances.

SEVENTH AFFIRMATIVE DEFENSE

Plaintiff's alleged injuries, sufferings and damages, if any, were caused by Plaintiff's own willful and malicious misconduct.

EIGHTH AFFIRMATIVE DEFENSE

Plaintiff has failed to state a claim under 42 U.S.C. Section 1983 upon which relief can be granted as the same relates to the Answering Defendants

NINTH AFFIRMATIVE DEFENSE

Answering Defendants are immune from liability under the doctrine of qualified immunity.

WHEREFORE, Answering Defendants deny liability upon any and all of the causes of action declared upon, and demands judgment in their favor plus interests and costs.

City of Philadelphia Law Department

/s/Niya L. Blackwell
Niya L. Blackwell
Deputy City Solicitor
Attorney ID # 79930
Law Department-Civil Rights Unit
1515 Arch Street, 14th Floor
Philadelphia, PA 19102
(215) 683-5445

DATED: November 20, 2013

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FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

CALIPH MANLEY

Plaintiff,

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**THE CITY OF PHILADELPHIA. POLICE
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TERRELLE GREENE**

Defendants

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CERTIFICATE OF SERVICE

I do hereby certify that service of a true and correct copy of Defendants' Answer with Affirmative Defenses has been served upon the following individuals by first class mail:

**I. Michael Lubber, Esq.
1760 Market Street
Suite 1100
Philadelphia, PA 19103**

Date: November 20, 2013

Respectfully submitted,

/s/ Niya L. Blackwell
Niya L. Blackwell
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